IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
WEDNESDAY, THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE K.C. BHANU
WRIT PETITION NO : 10210 of 2004

Between:
E. Bala Swamy S/o Kedaraiah 30 years, Ex Conductor.E.700530
R/o Post & Village Srinivasapuram, Jangareddi Gudem, West Godavari District

.....
PETITIONER

AND

1 The Regional Manager, APSRTC, West Godavari Region, Eluru West Godavari District
2 The Divisional Manager, APSRTC., Eluru Division, Eluru, West Godavari District
3 The Depot Manager, APSRTC., Jangareddi Gudem Depot, West Godavari District

.....RESPONDENT S

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or Direction more particularly one in the nature of Writ of Mandamus declaring the Proc. No. 01/95(14)/2001-JRG Dt 11-09-2001 issued by the 3rd respondent in deleting the name of the petitioner from the Approved List/Selection List with immediate effect duly terminating his services from the corporation besides fore-feature of Security Deposit out standing in the accounts of the Corporation Funds and confirmed by the 2nd respondent in Appeal Proc. No. Steno/19(55)/2001-DVM Elr. Dt 27-12-2001, further confirmed by the 1st respondent in Review Proceedings No. PA/675(26)/2002-RMW.G Dt 15-11-2002 by way of punishment as arbitrary, illegal, unjust contrary to law in violation of punishment as arbitrary, illegal, unjust, contrary to law in violation of principles of natural justice, without jurisdiction contrary to Regulations of the Corporation and also in Violation of Articles 14 and 21 of the Constitution of India and consequently set-aside the same and to

Counsel for the Petitioner: MR.P.SRIDHAR RAO

Counsel for the Respondent No.: MR.VENKATESWARLU POSANI

The Court Made the Following :

O r d e r:

Heard both sides. At the request of the learned counsel appearing on both sides, the main writ petition, itself, is heard and disposed of.

The present writ petition is filed questioning the proceedings No.01/95 (14)/2001-JRG dated:11-09-2001 issued by the third respondent deleting the name of the petitioner from the approved list/select list of the Conductors with immediate effect terminating him from the services of the Respondent-Corporation.

Aggrieved by the order dated: 11-09-2001, the petitioner filed statutory appeal before the second respondent. The second respondent confirmed the order of the third respondent by his order dated:27-12-2002. The review petition filed by the petitioner against the said order, before the first respondent, was also dismissed by order dated: 15-11-2002. Questioning the said order of the first respondent, the present writ petition is filed.

Learned counsel for the petitioner contended that without conducting any inquiry and without affording an opportunity of being heard, the petitioner was removed from the service. Due to poverty, he could not approach the court immediately. Hence he prays that the order impugned may be set aside.

Leaned Standing Counsel appearing for the respondents submitted that after lapse of three years of the impugned order, the

petitioner approached this court, questioning his removal from service. As such the petitioner is not entitled for any relief for the lapses committed by him.

It is not in dispute that the petitioner was appointed as a Conductor in the year 1999 through a regularly constituted selection committee. In respect of pecuniary loss caused to the respondent-Corporation, show cause notice dated:8-8-2001 was issued for which the writ petitioner gave reply. Thereafter, the respondent-Corporation passed order dated: 11-9-2001 deleting the name of the petitioner from the approved list/select list of conductors. With regard to the alleged laches on the part of the petitioner, the petitioner is a poor person eking out his livelihood in a remote village. Therefore, it cannot be a ground for dismissing the writ petition.

Admittedly, in the present case, no inquiry was conducted. Though the petitioner is a daily wage worker principle of natural justice call for a regular inquiry before inflicting any punishment on him. In support of his contention, learned counsel for the petitioner submitted that the question involved for adjudication in this writ petition is squarely covered by a decision of this Court in *A. Hemalatha vs. APSRTC*[1], *wherein it was held:*

> *"Therefore, it was imperative for the respondents to conduct an inquiry. It is also contended by the learned counsel for the respondents that the Corporation Rules do not contemplate an inquiry with respect to daily wageworkers. That might be so, but it is against the rules of natural justice to punish a person by creating a stigma for her, which would hurt her through out her life, without even conducting an enquiry. Since inquiry has not been conducted and an order has been passed which creates a stigma, therefore, the order cannot sustain."*

In view of the aforementioned verdict of this Court, the order impugned cannot sustain.

In the result, the writ petition is allowed setting aside the order passed by the first respondent in Review Proceedings No.PA/675(26)/2002-RMWG, dated:15-11-2002. However, it is made clear that this order will not preclude the respondents from taking disciplinary action, if any, against the petitioner as per law. In the circumstances no costs.

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K.C. BHANU, J.

23—6—2004
*BVS

To
1 The Regional Manager, APSRTC, West Godavari Region, Eluru West Godavari District
2 The Divisional Manager, APSRTC., Eluru Division, Eluru, West Godavari District
3 The Depot Manager, APSRTC., Jangareddi Gudem Depot, West Godavari District
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[1] W.P.No.401/2000 dt.22-6-2000.